

In re ) Fair Hearing No. 9932  
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Appeal of )

The petitioner appeals her Medicaid closure due to the receipt of a lump sum amount representing a personal injury insurance settlement.

1. On June 9, 1990, the petitioner, a single mother with three children who was an ANFC, Medicaid, and Food Stamp recipient, received an insurance settlement of \$16,000.00 in connection with an automobile accident in March of 1989. The payment was solely for pain and suffering of the petitioner, as separate payments had been made for her medical expenses.

2. Prior to her receipt of the lump sum, she had discussed its impending arrival with her worker at the Department of Social Welfare and was informed that it would likely mean her ineligibility for all programs for some time in the future. On June 20, 1990, the petitioner reported the receipt of this income to the Department of Social Welfare.

3. On June 20, 1990, the Department sent the petitioner a notice that her ANFC, Food Stamps and Medicaid would close as of June 30, 1990 due to excess resources. She was also notified that she would not be eligible for ANFC before

October of 1991, and that excess resources spent on certain medical expenses (not maintenance expenses) might reduce her excess for Medicaid purposes. On July 10, 1990, the petitioner was sent a more detailed notice regarding the period of her ANFC disqualification and how that period might be shortened if the money were used in certain ways.

4. The petitioner did not appeal her ANFC or Food Stamp closure but did appeal her Medicaid closure due to concerns about her own medical problems and those of her five-year-old child. The Department informed her that the five-year-old would continue to be covered under another Medicaid program and that her family's Medicaid benefit would continue pending the outcome of the hearing.

5. On the day of the hearing, August 3, 1990, the petitioner had spent all but about \$1,700.00 of her lump sum, which amount is under the resource limits for her household size for both the Food Stamp and Medicaid programs. She was in the process of filing a new application which is expected to be approved for the month of August, 1990.

6. The petitioner, in fact, had no medical expenses for the month of July, 1990. She testified that in addition to sums spent on her household maintenance, she had spent a considerable portion of her lump sum payment on old bills, a car and outstanding medical bills. She had yet to present any of those bills to the Department.

ORDER

This matter is dismissed.

REASONS

The evidence in this matter indicates that the petitioner's appeal has become moot based on her representation that she incurred no Medicaid expenses in the month of July, 1990, the first month of her disqualification, and the Department's representation that she is apparently eligible again beginning in the month of August, 1990, for Medicaid benefits. If the petitioner is, in fact, determined to be ineligible for the month of August due to excess resources, the Board would recommend that the petitioner be allowed to reactivate her claim and to continue to receive benefits pending a decision in this matter, based on the following serious issue raised by this pro se petitioner's appeal:

The Department's Medicaid regulations do require that insurance settlements be counted as a resource (M 330, 340) for ANFC-related benefits, and do set a maximum of \$3,300.00 for an assistance group of the size of the petitioner's. Procedures Manual 2420C. The theory behind this resource maximum is that anything over \$3,300.00 is an "excess" resource available to pay for medical expenses. However, in the petitioner's case, the "excess" (the amount between \$3,300.00 and \$16,000.00), is not in fact available to pay for medical expenses but instead must be used for household maintenance until October 1991, because the

petitioner has no other source of income and has been disqualified from receiving ANFC by the lump sum rule. The Department's own regulations at M 401<sup>1</sup> appear to contemplate this result. In fairness to the recipient (and all ANFC lump-sum disqualified recipients), this eligibility route should have been identified immediately and discussed with her.

The petitioner was strongly urged at hearing and continues to be urged to contact Vermont Legal Aid for assistance with her problems. She is now facing another year's ANFC disqualification, with no money. She indicated at the hearing that she may have spent some of the money for purposes which might shorten her disqualification. She was encouraged to immediately bring her bills into the Department for review.

#### FOOTNOTES

<sup>1</sup>A person who passes all eligibility tests, except that his or her Medicaid group's countable resources exceed the applicable Resource Maximum (See Sections M230-M239 or M340-M349), may qualify for Medicaid coverage by using the excess amount for maintenance and/or expenses.

To decide how excess resources must be used to qualify for Medicaid, the group's net monthly income must be compared to the Protected Income Level for the size group (See Sections M240 or M350). If monthly income is less than the Protected Income Level, resource amounts equal to the monthly difference may be spent for maintenance expenses. If monthly income is equal to or more than the Protected Income Level, excess resources must be used for medical expenses.

When all excess resources have been actually used and accounted for, Medicaid coverage may begin on the earliest date the person (or group) has passed all other eligibility tests and has incurred covered medical expenses which are

still unpaid. The resources "spend-down" test is not, however, passed until the person or group shows proof that the excess amount is no longer held as a resource and has actually been spent for maintenance or medical expenses. . .

Medicaid Manual § 401

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